

Responsive Remarks

Claims 3, 15-17, 19-22, and 29 are pending. Please cancel claims 18 and 30. Claim 15 is amended. Claims 3, 19-22 and 29 have been indicated to be allowable, and are unchanged by this amendment. The Examiner's attention to the application, and his suggestion of allowable claims, are acknowledged with thanks.

Claim 16 stands rejected under 35 U.S.C. § 102(e) as being anticipated by Altman, U.S. Patent No. 6,239,774. The rejection is respectfully traversed. Claim 16 recites "a *multi-degree sensor* for detecting angular motion of said lighted array." (Emphasis added.) Applicant's specification discloses "multi-degree" sensors which "may also be employed to detect inertia reversal in nearly 360 degrees of swing rotation," so that "[m]otion of the 360 degree light stick can be detected" A "multi-degree sensor," accordingly, is "employed to detect inertia reversal in nearly 360 degrees of swing rotation." See Specification, paragraphs [0163] through [0167].

Altman, in contrast, discloses a bilateral type sensor intended for, and capable only of, sensing to-and-fro motion reversals. According Altman's stated function and disclosed structure (double-throw switch) for his inertial sensor, it is for detecting inertial changes due to "back and forth" (i.e. reciprocating) motion. Altman, col. 4, lines 7-59; col. 5, line 60. It cannot monitor "inertia reversal in nearly 360 degrees of swing rotation" as disclosed by Applicant, and consequently does not meet the limitation of "multi-degree sensor" as required by claim 16.

Because it is well-settled that an "anticipation" rejection under 35 U.S.C. § 102 requires that every limitation of an apparatus claim, in the structure recited, must occur in the applied prior art reference, a rejection of claim 16 over Altman fails. The rejection of claim 16 is traversed.

Claim 15 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Ohta et al. (U.S. Pat. No. 5,444,456) in view of Altman. The rejection is overcome by amendment. Claim 15 is amended to recite "a controller in communication with said array and programmed to count a number of adjacent inertia reversals detected . . . and to modify the display data

delivered . . . ; whereby a series of changing styles of graphics or alphanumeric characters appear and hang in mid air” Supporting disclosure for the amendment is found, for example, at Specification paragraphs [0143] through [0145] and [152].

Neither Ohta nor Altman, nor their combination, discloses or suggests a device which counts the number of successive inertial reversals to signal a modification in the display data. Altman teaches that his user changes the image displayed by deliberately pushing a button (e.g., Altman col. 7, lines 41-50), or perhaps by clock timing the duration of image display (col. 8, lines 47-55). Because the subject matter added to claim 15 by amendment is absent from Ohta and Altman, claim 15 has been placed in condition for allowance.

Claim 17 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Altman in view of Bell (U.S. Pat. No. 4,470,044). The rejection is respectfully traversed. Claim 17 depends from claim 16 and thus includes its limitations. At the outset, it is noted that Altman teaches a device that is operated exclusively by swinging “back and forth.” There is no suggestion to modify Altman’s device to provide that its “array rotates at a variable speed around the circumference of a circle.” Applicant submits that combination of Bell with Altman is improperly made, there being no motivation for the combination.

Additionally, and as argued above in traversal of the rejection of claim 16 over Altman, Altman does not disclose “a *multi-degree sensor*” for detecting angular motion of the lighted array. Claim 16 thus is distinguished over Altman. Bell does not disclose the subject matter lacking from Altman, i.e. a multi-degree sensor. Claim 17, depending as it does from claim 16, specifies a multi-degree sensor, and thus is patentable over Altman in view of Bell.

That the Altman reference cannot properly be taken in view of Bell is further confirmed by the fact that Bell’s rotary device (Bell, Fig. 6) does not have “a lighted array of light emitting elements,” nor a “controller being programmed to deliver display data in a *piecewise fashion* to said lighted array” as recited in claim 16 (from which claim 17 depends). Bell’s rotary embodiment does not produce the image effect electronically. Rather, it does so “mechanically using an opaque rigid disc . . . containing perforations” that is rotated past “a line source of light behind the disc which is visible only through on column of perforations at a time” Bell,

col. 7, lines 38-45, Fig. 6. Thus, Bell does *not* teach a lighted array that sweeps around the circumference of a circle. Bell's rotary device has lines of perforations in a rigid disk, and the perforate lines rotate, spoke-like, around the disk's central pivot point. In sum, Bell's rotary embodiment has no moving lights at all, only holes that move past a stationary light.

Because neither Altman nor Bell disclose an apparatus "such that the lighted array rotates at a variable speed around the circumference of a circle," as required by claim 17, Applicant's claim is allowable over Altman in view of Bell.

The Examiner has indicated that claims 3, 19-22 and 29 are in condition for allowance. Applicant requests that the claims be renumbered as appropriate and then allowed.


Claims 18 and 30 stand rejected under various sections of Title 35, over selected items of alleged prior art. Applicant elects to moot these rejections by canceling claims 18 and 30

Applicant respectfully solicits a Notice of Allowance for the remaining claims.

Respectfully submitted,

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By:


Arthur Lane Bentley

10252 South 2375 East
Sandy, Utah 84092